



**CONTAINS CONFIDENTIAL BUSINESS INFORMATION NOT SUBJECT TO DISCLOSURE UNDER FOIA**

September 8, 2021

**By Electronic Mail**

Thomas Carroll  
Acting Director  
Air Enforcement Division  
Office of Civil Enforcement  
U.S. Environmental Protection Agency  
William Jefferson Clinton Building  
1200 Pennsylvania Avenue, NW  
Mail Code: 2201A  
Washington, DC 20460

Re: September Update to Response to April 24, 2020 Letter from the U.S. Environmental Protection Agency

Dear Mr. Carroll:

Birla Carbon USA, Inc. ("Birla" or the "Company") submits this letter as the sixteenth update to its May 22, 2020 response to the April 24, 2020 letter it received from the U.S. Environmental Protection Agency ("EPA" or the "Agency") regarding force majeure notices the Company submitted on March 16 and 18, 2020 in anticipated noncompliance with obligations under the Consent Decree between the United States of America, the Louisiana Department of Environmental Quality ("LDEQ"), the Kansas Department of Health and Environment ("KDHE"), and Columbian Chemicals Company. Consent Decree, *United States et al. v. Columbian Chem. Co.*, No. 6:17-cv-01661-RGJ-CBW (W.D. La. June 11, 2018).

Please note that this letter and certain attachments to this letter include confidential business information ("CBI") and are marked as such. Documents marked for CBI are entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B, and are not subject to disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. We ask that LDEQ and KDHE similarly treat this as CBI under their analogous state laws.<sup>1</sup>

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<sup>1</sup> Certain attachments to this letter include CBI, which Birla has designated as such with the stamp "CONFIDENTIAL BUSINESS INFORMATION NOT SUBJECT TO DISCLOSURE UNDER FOIA." Based on a review of relevant LDEQ regulations, La. Admin. Code tit. 33, pt. I, § 501(A), Birla understands that it must submit any CBI via mail or delivery to

Birla Carbon USA, Inc.

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T: (770)792-9400 | F: (770)792-9328 | W: [www.birlacarbon.com](http://www.birlacarbon.com)

## **I. North Bend**

Since our last update, construction is ongoing at North Bend for installation of equipment required under the Consent Decree. Additionally, Birla's application to modify North Bend's Title V operating permit to include consent decree applicable requirements is currently under review with LDEQ.

On August 28, 2021, in response to Hurricane Ida's predicted landfall near North Bend, Birla shutdown the plant and evacuated all personnel, including construction crews. North Bend was closed from the morning of August 28, 2021, through the evening of August 30, 2021. *See Confidential Attachment 1.* The project manager and associated contractors began to remobilize the construction crews on September 1, 2021, to resume project construction activity. As of September 7, 2021, approximately half of the out of town construction crews were back on-site. *See Confidential Attachment 1.* The project construction team is planning to work through weekends to try and maintain the planned schedule; however, the full impact of Hurricane Ida on the schedule will not be known for at least another week.

Birla's vendor, [REDACTED], continues to estimate a two to four month delay for various components of the scrubber system. *See Confidential Attachment 1.* [REDACTED], the vendor for the reactor vent scrubber system is experiencing delays due to the lack of access to manufacturing facilities in connection with poor weather conditions and continuing COVID-19 restrictions in India. *See Confidential Attachment 1.* Currently, shipment of the reactor vent scrubber system is projected for between September 20, 2021, and September 25, 2021, nearly two weeks earlier than the more recent projected shipment date of October 10, 2021. *See Confidential Attachment 2.* The reactor vent scrubber system is currently expected to ship out of Mumbai, India, and arrive at either the New Orleans or Houston ports several weeks later. However, we note from the March 5, 2021 update, due to logistical delays at Asian and U.S. ports, Hickok's vent scrubber system took nearly three months to arrive at that facility.

As of the last update, the sound enclosures for the blowers to the SCR were delivered on August 5, 2021, nearly a six week delay from the original delivery date of June 25, 2021.

In sum, Birla is continuously assessing the impact on the construction schedule due to the effects of Hurricane Ida resulting in North Bend's temporary shutdown, evacuation of personnel, and demobilization and remobilization of project construction crews, as well as the continuing effects of the COVID-19 pandemic. At this time, the projected target completion date for the SCR and absorber is still projected to be completed by December 31, 2021, with continuous operations projected at January 31, 2022. *See Attachment 3.* In regards to the reactor vent scrubber system, with the expedited shipment of the reactor vent scrubber system from Mumbai, India, the date of installation is currently estimated to be March 16, 2022, and the system to be commissioned and in continuous operation by April 16, 2022. *See Attachment 3.* The final commission of the SCR and seawater scrubber system is anticipated to take place sometime in January 2022 with the Continuous Emissions Monitoring System ("CEMS") being certified around January 31, 2022, however the reactor vent scrubber will be at the later date provided above.

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LDEQ and not electronically. At this time, Birla is providing the entire submittal to EPA and KDHE, and will separately submit the letter and its attachments to LDEQ.

## II. Hickok

Hickok is in continuous operations under the Consent Decree and is meeting its Consent Decree obligations as of June 12, 2021.

We have no further updates for Hickok at this time.

We will update you with more details as they become available. Please contact David Buente at 202-255-8684 or [dbuente@sidley.com](mailto:dbuente@sidley.com) if you have any questions in the meantime.

Sincerely,



Randy Waskul  
Global Director, Health, Safety & Environmental

CC: Kellie Ortega, U.S. EPA (by email)  
Patrick Foley, U.S. EPA (by email)  
Chris Williams, U.S. EPA (by email)  
Carlos Evans, U.S. EPA Region 6 (by email)  
Emad Shahin, U.S. EPA Region 6 (by email)  
Lisa Gotto, U.S. EPA Region 7 (by email)  
Lisa Hanlon, U.S. EPA Region 7 (by email)  
Amy Algoe-Eakin, U.S. EPA Region 7 (by email)  
Alex Chen, U.S. EPA Region 7 (by email)  
Thomas Mariani, U.S. DOJ (by email)  
Eli Quinn, U.S. DOJ (by email)  
Connie Ellis, KDHE (by email)  
Kate Gleeson, KDHE (by email)  
Deidre Johnson, LDEQ (by FedEx)  
David Buente, Sidley Austin LLP (by email)  
Peter Whitfield, Sidley Austin LLP (by email)

Enclosures: Confidential Attachment 1 - 2021 - 09 - 07 - North Bend - Letter from Engineer of Record

Confidential Attachment 2 - 2021 - 08 - 31 - North Bend - Reactor Vent Scrubber Update Vendor

Attachment 3 -2021 - 09 - 01 - North Bend - Email Correspondence from Project Manager

# **CONFIDENTIAL ATTACHMENT 1**

2021-09-07 - North Bend -  
Letter from Engineer of Record

Attn: Mark B. Vannice, PE, Project Director  
Birla Carbon USA, Inc.  
Regional Office Marietta  
1800 West Oak Commons Ct  
Marietta, GA 30062

Letter: BC-017

Re: Purchase Order No. 2300002188; Notice of Force Majeure Event Update – Status as of September 5<sup>th</sup>, 2021

Dear Mr. Vannice:

Reference is made the above Purchase Order and the Professional Services Terms and Conditions (Agreement) and Letters BC-001 dated May 13<sup>th</sup>, 2020 and BC-002 dated June 17<sup>th</sup>, 2020. Terms not otherwise defined herein shall have the meaning assigned to them in the Agreement.

In accordance with Article 12(a) of the Agreement Engineer is providing Owner an update to the Force Majeure Event notice of May 13<sup>th</sup>, 2020. The Force Majeure Event is primarily the domino effect of uncontrolled delays and disruption of the global supply chain the Owner is experiencing from its Vendors supplying material and equipment to the Facility project; and secondarily the potential delay caused by disruptions in the available services to, and mobility of, Engineers' staff. The delays and disruptions to the supply chain as we are informed by notices from the Vendors to you are caused by impacts of the COVID-19 epidemic on the manufacture of materials and equipment. These delays are outside the control and without the fault of Engineer. To the extent these delays experienced by the Vendors affects the timely delivery of our Work that depends on inputs of information and ultimately delivery to the Facility in accordance with the Schedule, we are, or likely will be, seeking extensions on the Schedule for a time reasonably necessary to overcome the effect of the delay and additional compensation as appropriate. We are to the extent possible undertaking reasonable measures to make up for time lost caused by the delay and assisting Owner, to the extent possible, mitigating Vendor impacts.

September 7<sup>th</sup> , 2021

Mr. Mark Vannice

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As of September 7<sup>th</sup> , we are informed by Owner's Vendor [REDACTED] that they are incurring delays of anywhere from two (2) to four (4) months for various components of the AQCS due to the lack of access to manufacturing facilities in connection with the restrictions related to the COVID-19 virus. Additionally, the absorber manufacturer contracted by [REDACTED], [REDACTED], has issued [REDACTED] a Force Majeure claim as of March 2<sup>nd</sup>, claiming a two week delay due to the extreme cold weather event in February and Covid impacts. Delays in delivery of [REDACTED] equipment are directly affecting the project schedule. Currently we are still awaiting one of the Absorber Feed pump motors, Absorber quench water pumps, some of the FRP piping supports, and Duct burners; all of which are directly impacting progress.

In addition, Owner's Vendor [REDACTED] delayed their hydrotest dates until January 18<sup>th</sup> and 29<sup>th</sup>, 2021, causing a delay of the delivery of the HRSG until March 3<sup>rd</sup>. This was over two months past the original delivery date.

A new priming system skid has been sourced after the original vendor backed out of their contract due to the death of the company Principal and Covid 19 impacts. The new vendor, [REDACTED], will now deliver the skid in August of 2021, an approximate slip of more than four months over the original delivery date of April 1<sup>st</sup>.

Additionally, the entire North Bend plant was evacuated the week of August 24<sup>th</sup>, 2020 due to two named storms, Hurricane Laura and Tropical Storm Marco.

Also, the entire North Bend facility was evacuated again October 8<sup>th</sup> – 11<sup>th</sup>, 2020 for Hurricane Delta. This evacuation had initially delayed the piling contractor Patriot Construction and they had issued a Force Majeure notice for this event. The piling is now complete, and this has been incorporated into the current schedule.

Another extreme weather event that impacted the project was the record cold in February 2021. The site was closed Feb 15<sup>th</sup> – 17<sup>th</sup> due to local roads being closed restricting access to the site. Additionally, we did close the site a few days in April due to lightning, but contractors worked Saturdays to mitigate.

On August 27<sup>th</sup>, 2021, the site began preparing for Hurricane Ida. The site was evacuated August 28<sup>th</sup> through the 30<sup>th</sup>. We are currently reengaging the site. The trade contractors are not able to restaff the job fully due to large portions of their staff having been directly impacted by the hurricane and that are not yet able to return. Additionally, the reduced availability and higher prices for fuel and accommodations in the area is affecting the availability of craft labor.

September 7th, 2021

Mr. Mark Vannice

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These potential delays by the Vendors and the weather-related evacuations and closures of the site translates to a corresponding delay affecting the Engineer's Schedule that is also outside the control and without fault of Engineer. Engineer is taking every effort to overcome or mitigate the potential delays and will keep you informed as further information becomes available, so that we can work together cooperatively to address any problems that may arise on your Facility project.

The AQCS project schedule has been significantly impacted by Hurricane Ida. The total impact is not yet fully understood as we are still recovering from the event. The schedule is going to be reviewed with Birla Carbon to determine the full impact. The schedule impact and project completion date will be forwarded at a later date.

The vent scrubber project is experiencing delays due to late equipment deliveries. The scrubbers provided by [REDACTED] are being impacted the Covid 19 pandemic in India. Current ship date from India is October 1, 2021. The current estimated Vent Scrubber completion date is March 31<sup>st</sup>, 2021. However, this date is still fluid until all equipment deliveries can be confirmed.

We continue to monitor the situation and will keep the Owner apprised of additional delays or improvements as they are discovered.

Please feel free to contact me at [REDACTED] or [REDACTED] if you have any questions.

Sincerely,

cc: Randy Waskul, Birla

## **CONFIDENTIAL ATTACHMENT 2**

2021-08-31 - North Bend -  
Reactor Vent Scrubber Update

**STATUS UPDATE - [REDACTED] SCRUBBERS****PO No. 2300002757 dt. 05.04.2021****A. Engineering & Drawings**

- I. As Built GA Drawing "Released for Manufacturing" shall be submitted for your records before despatch

**B. Procurement of Raw Material & Bought Outs****I. Raw Material Procurement:**

- i. Scrubber for Rubber Unit:
  1. All Raw Material received, tested & processed.
  2. Pipes: 25 NB & 65 NB in SS 317L which were ordered directly on Mill (M/s Shalco) have been received. Mill TC is attached.
- ii. Scrubber for Speciality Unit:
  1. All Raw Material received, tested & processed.

**II. Bought out Items:**

- i. Spray Nozzles –Balance items received as scheduled. TC is attached
- ii. Actuators– [REDACTED] committed Delivery was 30<sup>th</sup> August. Was likely to be delayed by one week. We have successfully expedited and the Cylinders have been despatched. Expected to be received on 03-09-2021.
- iii. Actuated ball valves – Order Finalised & released. [REDACTED] Committed Delivery was 30<sup>th</sup> August. Delivery got extended by about 10 days.
- iv. Other valves, fittings & miscellaneous items – 100% quantity is received.
- v. Hardware (Gr B 16/2H) – Ordered. Committed [REDACTED] delivery is 15-09-2021. We are following up.
- vi. SWR Gaskets for water line – Delivery expedited. All items have been received. MTC was attached with last Progress report.
- vii. Gaskets for SU –3 mm thk UKL1000-3XA, Uni Klinger make, gasket material has been sourced. Material received as scheduled. Processing scheduled for completion on 06-09-2021.

## viii. Gaskets for RU:

- a. For High Temp zone, 3 mm thk, Frenzelit make NOVAMICA THERMAX phlogopite-mica gaskets have been sourced. With special efforts all gaskets have been despatched and expected to receive on 03-09-2021. MTC is attached.
- b. For Non High Temp zone, 3 mm thk, Frenzelit make NOVAFIT 400 gasket material has been sourced. Material received with special efforts. Processing scheduled for completion on 08-09-2021. MTC is attached.

**C. Manufacturing:**

- I. 100% Cutting, Rolling / Pressing work completed.
- II. 99% Machining work completed.
- III. All Fabricated Flanges are ready
- IV. Fitment and welding of various sub-assemblies was taken up from 06-08-21 Sub Assembly wise completion of Fabrication is as under:

<b>Sub Assembly</b>	<b>Progress in % - RU</b>	<b>Progress in % - SU</b>
Quencher	85%	90%
Venturi	85%	90%
Throat	75%	75%
Flooded Elbow	95%	90%
Separator	80%	85%
Scrubbing Vanes	100%	100%
Water Seal	100%	100%
Header Pipes	50%	50%

- V. All fabrication work shall be completed between 5<sup>th</sup> & 10<sup>th</sup> Sept.
- VI. Throat trials with Actuator are now preponed to 7<sup>th</sup> Sept
- VII. Assembly checks shall be completed by 17<sup>th</sup> Sept. We are trying to prepone by 2 / 3 days.
- VIII. Surface preparation – Pickling and Passivation / general polishing shall be carried out after Assembly checks.
- IX. Hydro testing of Limpet of both units has been done. Test Report with pictures are attached.

31.08.2021

- X. RU & SU – Few Pictures of 'work in progress' are attached.
- XI. Scheduled Manufacturing completion: 20<sup>th</sup> September 2021. We are putting in special efforts. Further preponement by 2 / 3 days is targeted.

**D. Inspection:** Please treat this as intimation of Inspection for planning purpose. Please advise if you are planning to undertake Final inspection of both the units. Inspection can be scheduled between 15<sup>th</sup> & 20<sup>th</sup> Sept on any day mutually convenient. Please confirm your Inspection plan.

## **E. Packing & Shipment**

- I. Estimated shipment: With our special efforts, shipment between 20<sup>th</sup> & 25<sup>th</sup> September is now within sight.
- II. Estimated containers :
  - 40 Feet Flat rack container – 1 No
  - 40 Feet standard container – 1 No
  - 20 Feet standard container – 1 No

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## **ATTACHMENT 3**

2021-09-01 - North Bend -  
Email Correspondence from Project Manager

## Braddock, Allen S.

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**From:** Waskul, Randy <Randy.Waskul@adityabirla.com>  
**Sent:** Wednesday, September 1, 2021 11:06 AM  
**To:** Braddock, Allen S.  
**Cc:** Buente, David T.; Gaynor, Joe  
**Subject:** FW: North Bend EPA 114 Target Schedule dates

Here is the note from the project manager.

With Kindest Regards,

*Randy*

### Randy Waskul

Global Director Health, Safety and Environment



Birla Carbon

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**From:** Vannice, Mark <Mark.Vannice@adityabirla.com>  
**Sent:** Wednesday, September 1, 2021 11:22 AM  
**To:** Waskul, Randy <Randy.Waskul@adityabirla.com>  
**Cc:** Clark, Dale <Dale.Clark@adityabirla.com>  
**Subject:** North Bend EPA 114 Target Schedule dates

Randy

As of 11:00AM 9/1/21, the EPA 114 Construction Team is still trying to make contact with all personnel. Although the hurricane did not cause physical damage to the plant or site, the effects on the local community and impacts to the construction team is still unknown, along with the upcoming holiday weekend. Please note also that activities that were previously scheduled to complete prior to the Thanksgiving week, will be now be occurring before and after that week.

The Project team will be working with the contractors to determine impacts and update the construction schedule.

The best target dates are as follows

**AQC – Absorber & SCR's**

Equipment installed	-	12/31/2021
Continuous Operation	-	1/31/2022

**Vent Scrubber**

Equipment Installed	-	3/16/2022
Continuous Operation	-	4/16/2022

Please feel free to call me if you have questions

Mark

**Mark B. Vannice, PE**

Project Director EPA 114

North America Region, Aditya Birla Group



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